

Approved: 10/11/07

Clerk: 3/18/08

**MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS
September 13, 2007 7:30 P.M.
CITY COUNCIL CHAMBERS, 10TH FLOOR CITY HALL**

I. ROLL CALL

The meeting was called to order by Chairman Burgess at 7:30 p.m. Chairman Burgess read the BZA introduction. Roll call was taken.

Present:

B. Burgess F. Lain A. Frederick G. Hilts M. Mayberry E. Horne

Absent: G. Swix B. McGrain

Staff: J. Hodges

A. A quorum of at least five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

Mr. Hodges stated that the applicant for BZA 3912.07 has requested that it be postponed until the next meeting due to a change in the amount of square footage that needs to be included in the variance notification.

A. Frederick moved, seconded by F. Lain to approve the agenda with the postponement of BZA 3912.07 until the October 11, 2007 meeting.

On a voice vote, the motion carried 6-0.

III. HEARINGS/ACTION**A. BZA-3912.07 - POSTPONED****B. BZA-3913.07, 1439 N. Homer Street**

This is a variance request by Pinnacle Exterior Remodeling to construct a sun room on the back of the house at 1439 N. Homer Street that would have a rear yard setback of 15 feet. Section 1248.09 of the Zoning Ordinance requires a 30 foot rear yard setback in the "A" Residential zoning district which is the designation of the property at 1439 N. Homer Street. A variance of 15 feet to the required rear yard setback is therefore, being requested. Staff recommended approval of the request on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Josh Nunez, 2844 W. Townsend, St. Jones, representing Pinnacle Exterior Remodeling, spoke in support of the variance request. He provided the board with pictures of the

proposed sun room.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Frederick stated that the staff report adequately describes the practical difficulty. He said that the placement of the house on the lot and the shape of the lot contribute to the difficulty in complying with the rear yard setback. Mr. Frederick stated that he could support the variance request.

Mr. Lane also expressed support for the variance.

A. Frederick moved to approve BZA-3913.07, a variance of 13 feet to the rear yard setback requirement to permit the construction of a 12' x 12' sun room on the back of the house at 1439 N. Homer Street, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by E. Horne.

VOTE	YEA	NAY
Mayberry	X	
Lain	X	
Hilts	X	
Burgess	X	
Horne	X	
Frederick	X	

Motion carried, 6-0, BZA-3913.07, was approval.

C. BZA-3914.07, 3134 Tecumseh River Drive

This is a variance request by Darren Tanner to permit the new house at 3134 Tecumseh River Road to have a side yard setback of 3.6 feet. Section 1248.07 of the Zoning Ordinance requires a 6 foot side yard setback in the "A" Residential zoning district which is the designation of the property at 3134 Tecumseh River Road. A variance of 2.4 feet to the required side yard setback is therefore, being requested. Staff recommended approval of the request on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Mr. Frederick asked if the applicant moved the house, in order to avoid a tree, from what the approved site plan showed without approval from the Planning Office.

Mr. Hodges stated that Mr. Frederick was correct. The applicant did not get permission from the Planning Office to change the layout of the site.

Mr. Lane asked if the hardship involves the tree on the lot (road right-of-way).

Mr. Hodges stated that the tree is the hardship because the city will not allow the tree to be removed. He said that the difficulty involves a natural feature (tree) that makes it necessary to relocate the house further to the west.

Darren Tanner, 8810 Columbia, Eaton Rapids, representing R.D. Tanner, spoke in support of the variance request. He said that Public Service would not approve the location of the driveway, as it was originally approved by the Planning Office during the building permit process, because it would have resulted in the removal of a tree. He said that he contacted Forestry and they would not allow the tree to be removed so he had to move the house further to the west in order to preserve and protect the tree in the road right-of-way.

Mr. Frederick asked if Mr. Tanner understood the purpose of site plan approval and if he understood that he should have come to the BZA for approval before he moved the house.

Mr. Tanner said that he does understand and he made a mistake in this case.

Mr. Lane asked if the applicant obtained a stake survey before he started construction.

Mr. Tanner said that he did not.

Ryan Tanner, 1145 Linwood, Lansing, representing R.D. Tanner, spoke in support of the variance request.

Mary Woodworth, 1906 Byrnes, Lansing, spoke in opposition to the variance request. She said that Mr. Tanner knew, when the trench was dug that it was off and it would encroach into the required side yard setback.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Frederick said that he is bothered by the potential problems that this situation will cause because of its close proximity to the side lot line. He said that there will not be enough room to maintain the side of the house. He also said that this situation could have been avoided if the applicant had sought approval from the Planning Office before he started building. Mr. Frederick said that he cannot support a variance. He stated that the applicant should have taken the trees into consideration when he was developing the plans for the construction.

Mr. Hilts stated that the situation is entirely self-created. He said that the tree could have come out if the applicant had been willing to spend the money on a replacement.

Mr. Lane stated that the applicant should have planned around the tree(s) originally and he should have obtained a stake survey. He said that he cannot support the variance.

A. Frederick moved to deny BZA-3914.07, a variance of 2.4 feet to the side yard setback requirement, on a finding that the variance would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by G. Hilts.

VOTE	YEA	NAY
Mayberry	X	

VOTE	YEA	NAY
Lain	X	
Hilts	X	
Burgess	X	
Horne	X	
Frederick	X	

Motion carried, 6-0, BZA-3914.07, was denied.

VI. OLD BUSINESS

D. Rules of Procedure - No action

B. BZA-3817.04, 1014 S. Pennsylvania Avenue - No action

VII. PUBLIC COMMENT - none

VIII. APPROVAL OF MINUTES

A. Minutes of Regular Meeting held August 9, 2007

A. Frederick moved, seconded by G. Hilts to approve the minutes of August 9, 2007, as printed.

On a voice vote, the motion carried unanimously (6-0).

IX. NEW BUSINESS - None

X. ADJOURNMENT AT 8:30 p.m.

Respectfully submitted,

Susan Stachowiak, Zoning Administrator